

cooperates with the fastening surface to define a gap therebetween. The hanger cooperates with a plastic bag. The hanger suspends the bag from an upper edge of the bag that is secured in the gap between the holding strip (11) and the fastening surface (7). Fastening surface (7) is recessed from the front side (4) of card body (2) such that, at times when holding strip (11) is closed, the front side (4) of card body (2) and holding strip (11) form a continuous plane surface.

In the subject application, the disclosed invention is distinguished from hangers wherein the merchandise for display is secured either directly in the hanger, or in a plastic bag that is attached to the hanger by staples or other fasteners. Among other advantages, the disclosed invention provides a continuous plane surface for the display of advertising on the hanger. This is in contrast to the display and advertising on the plastic bag, thereby affording higher visibility of the merchandise and also reducing the necessary inventory of plastic bags.

As presently amended, Claim 1 is patentable over Sanchez (C) in that, among other structure, Claim 1 requires:

"each of said holding strips cooperat[es] with said card body at times when said holding strip is pivoted adjacent to said card body to define a gap between the holding strip and the fastening surface of the card body [with the] hanger supporting the bag in the gap between the holding strip and the fastening surface of the card body."

Sanchez (C) nowhere describes or suggests a gap "that is defined between the holding strip and the fastening surface" as required by Claim 1. According to Sanchez (C), a device for holding plastic bags in an open or closed position includes

members (a and b) that are pivotally connected to each other by a rod (1). The opposing sides of a bag near the open end of the bag are clamped to two oppositely disposed recesses (13) by respective elements (15) that fit within the recesses (13). Each of recesses (13) is secured to a respective member (a or b). In Sanchez (C), the bag is "closed" by closing the members (a and b) together. The bag is "opened" by opening the members (a and b) apart.

In applying Sanchez (C), the last Official Action asserts: "Element 4 shows a flat rectangular piece of material which is considered as the card body." The Official Action further contends "the card body includes a fastening surface (14). The holding strip cooperates with the body to define a gap between the holding strip and the body (figure 5 shows space between the holding strip and card body)."

However, the application of Sanchez (C) that is proposed in the Official Action does not meet the structure that is required by Claim 1. Claim 1 requires that the hanger support the bag in a gap that is "defined" between the "holding strip" and the "fastening surface" not the "card body." Even accepting the application of Sanchez (C) as proposed in the Official Action, there is no structure in Sanchez (C) by which the members (a and b) "define a gap between the holding strip [element (8) of Sanchez (C)] and the fastening surface [element (14) of Sanchez (C)] of the card body [element (4) of Sanchez (C)] with the hanger supporting the bag in the gap between the holding strip [element (8)] and the fastening surface [element (14)]" as required by Claim 1. In contrast, as the Official Action has applied Sanchez (C), the fastening surface [element (14)] does not cooperate with the "holding strip" [element (8)] to define a gap that supports the bag! Instead, one side

of the bag is clamped to member (a) by an element (15) that is not part of element (8) or even member (b)! When members (a and b) are closed together, the bag is not supported in a gap defined between [member (b) or element (8)] and the fastening surface of [member (a) or element (14)].

In addition, Claim 1 is also patentable over Sanchez (C) for the reason that Claim 1 requires:

a card body having at least one recess, said card body defining one side with a portion of said one side defining a fastening surface that is recessed from the rest of said one side. (emphasis added)

The Official Action contends that "element number 4 represents the card body". Sanchez (C) describes member (a) as "a generally elongated C-shaped (in cross-section) body including a back wall 4, a pair of spaced side walls 5 and an end wall 6." (Col. 2, lines 48-50). The Official Action proposed to make the back wall 4 the "card body" and groove 14 the "fastening surface". The Applicant does not agree that the "back wall" of a U-channel is the equivalent of a card body as shown and described in the subject application. Nevertheless, the proposed construction of Sanchez (C) still does not produce "a fastening surface that is recessed from the rest of said one side [of the card body]" as required by Claim 1. Accordingly, Claim 1 is also patentable over Sanchez (C) for this reason as well.

Claims 2-8 and 15 depend from Claim 1 and therefore include all of the structure of Claim 1 and are patentable for the same reasons as Claim 1.

Claim 17 includes the structure of Claim 1 and is patentable over the cited references for the same reasons as Claim 1. In addition, Claim 17 is also patentable

over the cited references for the reason that it further requires: a "holding strip" in which "the opposite side of the holding strip cooperat[es] with the card body to form a continuous plane surface that can receive a label." Nowhere does Sanchez (C) describe or suggest such structure and the Official Action does not propose any application of Sanchez (C) to the contrary.

Claims 18-24 and 31 depend from Claim 17 and therefore include all of the structure of Claim 17 and are patentable over Sanchez (C) for the same reasons as Claim 17.

Claims 9-14, 16, 25-30 and 32 were rejected under 35 U.S.C. §103 based on the combination of Sanchez (C) and either U.S. Patent 4,983,047 to Netto (A) or French Patent 2,579,174 to Ausnit (N). Netto (A) describes an envelope with a closure device wherein rectangular parts (2 and 3) are joined by a hinge (4). A tongue (6) is connected to part (1) and cooperates with an ear (8) to secure the closure device to envelope (15). Pins (9) that are formed in part (2) pass through orifices (20) in envelope (15) and are received and locked in socket formations (10). Ausnit (N) describes a re-sealable bag that is made from two strips of plastic material having male and female closure beads.

Among other reasons, Claims 9-14 and 16 are patentable over Netto (A) and Ausnit (N) for the same reasons that Claim 1 is patentable over Sanchez (C). Claims 9-14 and 16 depend from Claim 1 and therefore incorporate all of the structure of Claim 1. Neither Netto (A) nor Ausnit (N) describe or suggest a "card body" with "one side defining a fastening surface that is recessed from the rest of said one side" or "holding strips" with a "gap between the holding strip and the

fastening surface of the card body [with the] hanger supporting the bag in the gap between the holding strip and the fastening surface of the card body" as required by Claim 1.

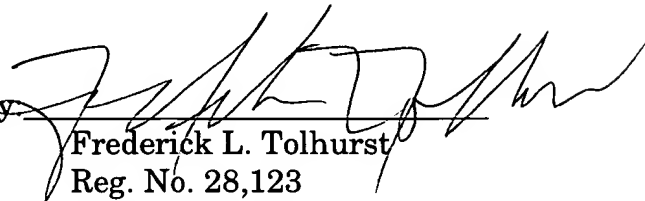
Claims 25-30 and 32 are patentable over Netto (A) and Ausnit (N) for the same reasons that Claim 17 is patentable over Sanchez (C). Claims 25-30 and 32 depend from Claim 17 and therefore incorporate all of the structure of Claim 17. Neither Netto (A) nor Ausnit (N) describes a "holding strip" in which the opposite side of the holding strip cooperates with the card body to form a continuous plane surface that can receive a label "as required by Claim 17.

Neither Netto (A) nor Ausnit (N) disclose the structure of Claims 1 or 17 and there is no teaching in either of those references for their combination in order to establish the further structure that is required by Claim 1 or 17. Ruiz v. A.B. Chance Co., 234 F.3d 654, 57 U.S.P.Q. 2d 1161 (Fed. Cir. 2000); Ecolochem, Inc. v. Southern California Edison Co., 227 F.3d 1361, 56 U.S.P.Q. 2d 1065 (Fed. Cir. 2000). Accordingly, Claims 9-14, 16, 25-30 and 32 are patentable over Sanchez (C), Netto (A) and Ausnit (N).

The other references that were cited by the Official Action but not specifically applied against the claims have been carefully reviewed, but are not seen to make the subject invention unpatentable.

In accordance with the foregoing amendments to the claims and in view of the above remarks, Claim 1-32 are believed to be in condition for allowance and such allowance is hereby respectfully requested.

Respectfully submitted,

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## Appendix A

### In the Claims:

Please find below claim 1 marked-up to show the changes incorporated in the above amendment:

1. (Twice Amended) A hanger for use with a bag that contains merchandise for display, said bag having an upper edge from which the bag is supported by the hanger, said hanger comprising:

a card body having at least one recess, said card body defining one side with a portion of said one side defining a fastening surface that is recessed from the rest of said one side;

at least one holding strip, said holding strip cooperating with said card body to define a gap between the holding strip and the card body at times when the holding strip is located adjacent to the card body; and

at least one film hinge, each film hinge corresponding to a respective one of each of said holding strips and pivotally connecting the corresponding holding strip to the one side of said card body, each of said holding strips cooperating with said card body at times when said holding strip is pivoted adjacent to said card body to define a gap between the holding strip and the fastening surface of the card body, said hanger supporting the bag in the gap between the holding strip and the fastening surface of the card body.